

**House Study Bill 152 - Introduced**

HOUSE FILE \_\_\_\_\_

BY (PROPOSED COMMITTEE ON  
HUMAN RESOURCES BILL BY  
CHAIRPERSON MILLER)

**A BILL FOR**

1 An Act relating to record checks of prospective and current  
2 health care employees and certain students.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 135C.33, subsection 2, Code 2013, is  
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. *Ob.* (1) If a person being considered for  
4 employment, other than employment involving the operation  
5 of a motor vehicle, has been convicted of a crime listed in  
6 subparagraph (2) but does not have a record of founded child or  
7 dependent abuse and the licensee has requested an evaluation  
8 in accordance with paragraph "a" to determine whether the crime  
9 warrants prohibition of the person's employment, the licensee  
10 may employ the person for not more than sixty calendar days  
11 pending completion of the evaluation.

12 (2) Subparagraph (1) applies to a crime that is a simple  
13 misdemeanor offense under section 123.47 or chapter 321, and  
14 to a crime that is a first offense of operating a motor vehicle  
15 while intoxicated under section 321J.2, subsection 1.

16 Sec. 2. Section 135C.33, subsection 8, Code 2013, is amended  
17 by adding the following new paragraph:

18 NEW PARAGRAPH. *Od.* (1) If a student's clinical education  
19 component of the training program involves children or  
20 dependent adults but does not involve operation of a motor  
21 vehicle, and the student has been convicted of a crime listed  
22 in subparagraph (2), but does not have a record of founded  
23 child or dependent adult abuse, and the training program has  
24 requested an evaluation in accordance with paragraph "c"  
25 to determine whether the crime warrants prohibition of the  
26 student's involvement in such clinical education component, the  
27 training program may allow the student's participation in the  
28 component for not more than sixty days pending completion of  
29 the evaluation.

30 (2) Subparagraph (1) applies to a crime that is a simple  
31 misdemeanor offense under section 123.47 or chapter 321, and  
32 to a crime that is a first offense of operating a motor vehicle  
33 while intoxicated under section 321J.2, subsection 1.

34 Sec. 3. STUDY OF BACKGROUND CHECK IMPROVEMENTS  
35 AND REQUIREMENTS FOR CERTAIN PROVIDERS OF HOME HEALTH

1 SERVICES. The department of inspections and appeals, in  
2 conjunction with the departments of human services and  
3 public health, shall study the potential for applying new  
4 technologies and other improvements that may be implemented for  
5 the current processes of performing and evaluating child and  
6 dependent adult abuse and criminal record checks of persons  
7 providing health care services. In addition, the study shall  
8 consider applying record check requirements to individuals and  
9 agencies providing home health services that are not subject  
10 to certification, licensing, or other regulation by state  
11 government. The department shall submit a report with findings  
12 and recommendations to the governor and general assembly on or  
13 before December 15, 2013.

14 EXPLANATION

15 This bill relates to evaluation of the results of certain  
16 criminal record checks of prospective health care employees by  
17 the department of human services (DHS).

18 Code section 135C.33, relating to criminal and child or  
19 dependent adult abuse record checks of employees of health  
20 care facilities and certified nurse aide student trainees, is  
21 amended. The record check requirement applies to prospective  
22 employees of nursing facilities, residential care facilities,  
23 and intermediate care facilities for persons with mental  
24 illness or a developmental disability, various in-home service  
25 providers, hospices, Medicaid waiver service providers, elder  
26 group homes, and assisted living programs. The requirement  
27 also applies to nurse aide students pursuant to Code section  
28 152.4(3)(d).

29 Current law provides that if it is determined that a  
30 person being considered for employment has been convicted of  
31 a crime under a law of any state, the department of public  
32 safety shall notify the licensee that upon the request of the  
33 licensee DHS will perform an evaluation to determine whether  
34 the crime warrants prohibition of the person's employment in  
35 the facility.

1 The bill allows for conditional employment of not more than  
2 60 calendar days of the prospective employee who was convicted  
3 of a crime specified by the bill pending completion of the DHS  
4 evaluation. The bill does not apply to employment involving  
5 the operation of a motor vehicle or to persons with a record  
6 of founded child or dependent adult abuse. The crimes covered  
7 by the bill are limited to simple misdemeanor offenses under  
8 Code section 123.47, involving purchase or possession of an  
9 alcoholic beverage by a person who is not legal age, and  
10 Code chapter 321, relating to motor vehicles and laws of the  
11 road, and first offenses of operating a motor vehicle while  
12 intoxicated under Code section 321J.2, subsection 1 (a serious  
13 misdemeanor).

14 A similar new conditional employment exception is applied by  
15 the bill to students applying for, enrolled in, or returning to  
16 a certified nurse aide training program.

17 The department of inspections and appeals, in conjunction  
18 with DHS and the department of public health, is required  
19 to study the potential for applying new technologies and  
20 other improvements that may be implemented for the current  
21 processes of performing and evaluating child and dependent  
22 adult abuse and criminal record checks of persons providing  
23 health care services. In addition, the study is required to  
24 consider applying record check requirements to individuals and  
25 agencies providing home health services that are not subject  
26 to certification, licensing, or other regulation by state  
27 government. The department is required to report with findings  
28 and recommendations to the governor and general assembly on or  
29 before December 15, 2013.